

## SELECT BOARD

<b>Policy Number:</b>	SB-LIC-015
<b>Policy:</b>	SMALL CELL WIRELESS FACILITIES POLICY
<b>Date Approved:</b>	October 27, 2020
<b>Approved:</b>	Maurice P. Handel, Chair, Select Board

### I. Statement of Purpose & Authority

#### A. *Purpose*

The purpose of the Town of Needham Small Cell Wireless Facilities Policy (“Policy”) is to establish a process and application criteria for permitting the placement of small cell wireless facilities within the Town’s public ways and/or on Town Property. The goal of this policy and the application process shall to be to ensure the safety, non-interference, and visual quality of the public right of way and the Town generally, while also providing the benefits of improved cell service consistent with applicable law and this Board’s statutory grant of location role and practices.

#### B. *Authority*

The Select Board holds a wide range of authorities and responsibilities relative to public ways, traffic rules, parking, permits, licenses, approvals, and enforcement of regulations on the use and maintenance of public ways under applicable laws, including but not limited to its well established authority over the public ways pursuant to the Massachusetts grant of location statutes, M.G.L. c. 166 §§ 21 and 22 and statutes on municipal regulation of the public way, *e.g.*, M.G. L. c. 166 § 25 *et seq*; and pursuant to the long recognized police power responsibilities of Select Boards and towns over the municipal public ways and municipal property. Regarding further authority of the Department of Public Works and municipal officials over the public way also see Town of Needham Bylaws (‘Bylaw’) Section 2.2.5.1.4 *Street Occupancy Permits*; Bylaw Section 2.2.5.1.7 *Construction and Maintenance of Overhead Poles*; Bylaw Section 2.2.5.4 *Trench Safety* and Bylaw Section 8.2.2.4 on Police Regulations, titled ‘*Street Occupancy Permit/Excavation in a Public Way*’ (attached as Exhibit 1) and incorporated herein to the extent applicable. The Select Board is also the general authority for similarly scoped access rights to most Town properties.

Implementation of this Policy shall be pursuant and subject to the Federal Communications Commission (FCC) Small Cell Wireless Order, *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory*

Approved: October 27, 2020

*Ruling and Third Report and Order*, FCC WT Docket Nos. 17-79 and 17-84, released September 27, 2018 (“*FCC Small Cell Wireless Order*” or “*FCC Order*”) and 47 United States Code §§ 253 and 332, respectively the federal statutes on telecommunications in the public right-of-way and wireless siting); and any other applicable laws and regulations. Further, the FCC Order specifically mandates that municipalities, after publication and due consideration, adopt objective standards, policies or regulations consistent with the FCC Order to have authority to regulate small wireless facilities. Consistent with the foregoing, to the extent required by applicable law, it shall be the policy of the Select Board and its Designee(s) to review and act on Small Wireless Facilities applications in a manner that does not effectively prohibit or materially inhibit Small Cell deployments and is non-discriminatory with respect to similarly situated applicants.

## II. Definitions:

- A. “*Antenna*” means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
- B. “*Applicable Codes*” means the building, fire, electrical, plumbing, and mechanical and other codes adopted by the Commonwealth of Massachusetts and applicable within the Town of Needham.
- C. “*Application*” means a written request or petition for a permit to collocate or otherwise locate small wireless facilities in the ROW consistent with and including the information called for in this Policy and applicable law and shall be in the form of an Application or petition for a grant of location pursuant to applicable Massachusetts grant of location law including M.G.L. c. 166 §§ 21-22 *et seq.* unless applicant demonstrates and the Town finds that a particular Application is not subject to said grant of location law.
- D. “*Board Designated Agent*” means a lawfully designated Town department, government body and/or employee or official as may be authorized by the Select Board to review applications prior to public hearing and/or establish Design and Public Safety Rules and Regulations subject to the Select Board reserving ultimate control and authority to approve or disapprove such Design and Public Safety Rules and Regulations. The Department of Public Works (DPW), Department of Public Health and the Town Manager are Board Designated Agents for review of Applications prior to grant of location public hearing or proceedings and for providing customary and lawful assistance to the Select Board as determined and directed by the Select Board.
- E. “*Collocate*” means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a pole or wireless support structure existing at the time of Application. “Collocation” has a corresponding meaning.
- F. “*Communications service provider*” means a cable operator, as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C § 153(51); a Wireless Provider or

a provider substantially equivalent to any of the aforementioned categories of Communications services providers.

- G. *“Design Rules and Regulations”* means additional reasonable, lawful, non-discriminatory aesthetic, safety and/or right-of-way management standards for SWFs set by the Board Designated Agent or other appropriate Town authority, provided that such standards shall be published and considered at a public hearing with sufficient public notice.
- H. *“Double Poles”* means any set of presently co-located utility poles erected directly alongside one another and typically connected to one another for any purpose including, but not limited to, replacing an aging pole, shoring up a damaged pole, or adding more equipment than can be borne by a single pole.
- I. *“Micro Wireless Facility”* means a wireless facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and (ii) any exterior antenna is no longer than 11 inches.
- J. *“Person”* means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.
- K. *“Pole”* means a pole or similar structure that is or may be used in whole or in part for communications, electric transmission or distribution, lighting, signage, or a similar function.
- L. *“Public Shade Tree”* means trees as defined by M.G.L. c. 87 sec 1.
- M. *“Rights-of-Way”* or *“ROW”* means the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway, in the Town.
- N. *“Small wireless facility,” “SWF” or “Small cell wireless facility”* means a wireless facility that meets the Federal Communications Commission definition of Small Wireless Facility as set forth in Section 1.1312(e)(2) of the FCC’s Small Cell Wireless Order.
- O. *“Wireless facility”* means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies and rectifiers, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which equipment is collocated.

- P. *“Wireless provider”* means a person who provides wireless services or builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures.
- Q. *“Wireless services”* means any services, whether at a fixed location or mobile, provided to the public using wireless facilities.
- R. *“Wireless support structure”* means a freestanding structure, such as a monopole; a tower, either guyed or self-supporting; or, other existing or proposed structure designed to support or capable of supporting wireless facilities. Such term does not include a pole.

### III. Permit Requirements & Prohibitions

#### A. *Applicability*

1. No person shall locate a small wireless facility in the ROW without first applying for and obtaining a permit for it, except if and as otherwise provided in this policy.
2. A permit shall not be required for: (i) routine maintenance of an existing small wireless facility; (ii) the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height; or (iii) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing poles, in compliance with applicable codes.

#### B. *Small Wireless Facilities (SWF) Requirements*

SWFs in the ROW shall comply with the following requirements:

1. The SWF will not interfere with the safety and convenience of ordinary travel over the ROW or access as required by the Americans with Disabilities Act (“ADA”) before or after installation of the SWFs and/or other related equipment;
2. The SWF may not extend more than ten feet above the pole supporting them, or 60 feet total in height above the ground, whichever is lower in height;
3. The appearance of the SWF shall be similar to and reasonably blend with the appearance of (a) the existing equipment on the pole or on other nearby poles (b) the color of the pole, or (c) another color reasonably requested by the Board Designated Agent and/or by the Select Board;
4. The dimensions of the Antenna shall not exceed sixteen (16) inches in diameter or forty (40) inches in height;

5. No part of the SWF shall extend further than four (4) feet from the pole if installed twenty (20) feet or higher above the ground or further than two (2) feet if installed below 20 feet above the ground;
6. No part of the SWF shall extend below eight (8) feet above ground level;
7. If technically feasible and not unduly burdensome, the subject SWF shall not be installed within 180 feet of another pole-mounted SWF or within 50 feet of a residence or school buildings and playground structures and shall exercise diligent efforts to meet the foregoing standards;
8. No SWF shall be installed on double poles;
9. No SWF shall be installed on poles with existing SWF or other substantial wireless equipment already in place if poles are reasonably available without existing SWF or other substantial wireless equipment already in place, except that equipment may be replaced with or without permit in a manner consistent with this policy;
10. No SWF shall cause damage to public shade trees and the SWF provider shall exercise diligent efforts to locate facilities in a manner designed to reasonably minimize the need for significant tree trimming;
11. No SWF shall be placed upon poles which cannot safely structurally support additional equipment;
12. To protect lawful and reasonable aesthetic and location interests of the Town and its residents, an applicant shall in its application disclose whether it provides multiple hardware, design, color and aesthetic options and features that may reduce the size and/or improve upon visual characteristics of the small cell hardware.
13. Applicant shall state in its application if, when and how it is available to voluntarily meet with the Town Engineer, the Town Planner, the Director of Public Works and/or a designee of the Select Board to discuss public safety; right-of-way management practices; size, color, concealment and other design options, if any, and to discuss other Town information needs, if any.
14. Any additional non-discriminatory aesthetic, safety or other lawful requirements set forth in Design Rules and Regulations approved by the Select Board or Board Designated Agent if sufficient public notice to has been provided prior to adoption of additional requirements.

C. *Waiver of Requirements*

The Select Board or its Designated Agent may waive one or more of the requirements in this Policy upon good cause shown. Such waivers shall be granted in a non-discriminatory manner.

*D. Installation & Access*

All SWFs shall be installed in accordance with the applicable codes in force at the time of installation including but not limited to electrical, fire, building, mechanical and construction codes and/or such other codes as in effect and applicable in the Commonwealth of Massachusetts.

*E. Access*

Wireless providers and their employees, agents, and contractors shall have a right of access to Town-permitted poles, wireless support structures and small wireless facilities in the ROW in accordance with the reasonable and non-discriminatory policies of the Town and/or pole and conduit owners applicable to all utilities with facilities in the ROW or doing work in the ROW.

*F. Repairs*

A wireless provider shall repair, at its sole cost and expense, any damage to Town streets, sidewalks, curbs, gutters, trees, parkways, Town poles (if any) or other property, utility lines and systems, or sewer or water systems or lines resulting from the collocation of a small wireless facility in the ROW or the installation of a pole in the ROW. The wireless provider shall restore such areas, structures and systems to substantially the same condition in which they existed prior to the damage.

IV. Application:

*A. Manner of Application*

A wireless provider seeking a Town of Needham permit under this Policy, or its duly authorized representative, shall apply to the Office of the Select Board by filing an Application, paper or electronic, including the information as may be required under all parts of this Policy and applicable law, including but not limited to the information required in Policy Section IV.B, Application Contents. The Application should include a cover letter from the Applicant or its representative summarizing the subject matter and contents of the Application and Exhibits to the Application.

*B. Application Contents*

The Application shall be filed and processed in accordance with Massachusetts grant of location law, including M.G.L. c. 166 §§ 21 – 22 and such lawful Town grant of location regulations and/or policies as may be applicable. It shall be the responsibility of the Applicant to prepare and file a form of written Application and cover letter containing the information as may be required under this Policy and applicable law.

Copies of the Applications as filed shall be made available to the public at the Department of Public Works or such other Town offices as determined by the Select Board. Applications shall be supplemented by Applicant with Exhibits and continuation sheets if and as needed to contain at minimum the information required by all parts of this Policy and applicable law, including but not limited to the following:

1. The wireless provider's name, address, telephone number, and e-mail address;
2. The name address, telephone number, and e-mail address of the wireless provider's representative, if different than the wireless provider;
3. For use in the event of approval of the application, an emergency contact number available 24/7 for use by Town public safety officials in the event of an emergency warranting immediate notification of pole and/or conduit attachers;
4. A general description of the proposed work and an engineering diagram showing the small wireless facility as mounted on the pole or structure, including underground or on ground conduit, if any, or other equipment, with dimensions specifically including the elevation of the proposed equipment;
5. A site plan signed by a professional engineer, with sufficient detail to identify the location of the site and show the proposed location of the facilities the applicant seeks to install in the ROW, including any manholes or poles and the size, type, and depth of any conduit or enclosure, and showing street fixtures, lampposts, traffic lights and any other street installations within the area shown on the site plan;
6. Photographs of the proposed equipment as installed in other jurisdictions, if any. If not installed in other jurisdictions, please include photographs of the equipment as proposed for installation;
7. The pole number(s) if applicable;
8. The total number of small cell wireless facilities within the Town that Applicant estimates it will be applying to deploy within the public ways of the Town (above and beyond those applied for in any one application and grant of location petition);
9. The expected useful life of the equipment;
10. A statement signed by a professional radio frequency engineer as to how the proposed pole is the most feasible location for an SWF;
11. A radio frequency emissions report demonstrating or certifying that the compliance of the proposed SWF with the maximum permissible exposures adopted by the Federal Communications Commission (FCC), including FCC

regulations, standards and guidance on RF emissions and facility operations applicable to uncontrolled general population exposure. Further, where there are multiple sources of emissions at or proximate to a location the report filed with the application shall reasonably certify and show compliance cumulative of all sources of RF emissions affecting a given area to the extent provided for by the FCC as set forth in OET Bulletin 65 and related FCC guidance or regulations, including the FCC LSGAC *Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance, Page 6* (June 2, 2000);

12. Certification by the applicant that direct abutters were sent notice of the application via certified mail, and further, that a public notice of the petition has been advertised at the applicant's expense;
13. Where applicable, the written consent of the pole or facility owner subject to SWF installation;
14. Proof of liability insurance for installation of SWFs with insurance coverage meeting requirements set forth in Part VII below; and/or
15. Insurance certificates for any SWF or related equipment located in the public Right-of-Way showing insurance coverage meeting requirements set forth in Part VII below. Said insurance certificate shall name the Town and its Departments as additional insureds.
16. If and to the extent any proposal to locate a small wireless facility in the ROW includes underground and/or on ground equipment or installation, the Application shall set forth information required hereunder with respect to above ground installations with respect to underground or on ground installations to the extent applicable. Any underground or on-ground work shall comply with local bylaws and policies with respect to street occupancy permits, trench safety and other laws if and to the extent applicable. Applicants are advised to consult with the Department of Public Works regarding street occupancy permit procedures and trench safety requirements that may be in addition to and separate from Grant of Location proceedings and other applicable requirements.

### *C. Application Fee*

An application fee of Five Hundred Dollars (\$500) per application payable to the Town of Needham. The \$500 application fee shall cover up to five (5) locations, which each additional location per application subject to a One Hundred Dollar (\$100) per location fee.

### V. Applications with New Poles:



A request by a wireless provider for a grant of location to install a new pole in the right-of-way in order to support small wireless facilities shall be processed and determined in a non-discriminatory manner pursuant to the provisions of applicable law, including but not limited to the Massachusetts grant of location statute, M.G.L. c. 166, §§ 21, 22 *et seq.*, the Town's grant of location bylaws and/or regulations if and as applicable. A request to install an SWF at a new location (not a collocation) shall be approved or denied within the F.C.C. ninety (90) day time limit for reviewing a filing of a complete application (including grant of location petition in Massachusetts) unless the FCC 90-day timetable is tolled in accordance with the FCC Small Wireless Order and applicable law. An application for a new pole shall include a non-recurring fee of One Thousand Dollars (\$1,000.00).

## VI. Additional Requirements

1. An SWF Provider deploying facilities in the Town shall annually submit to the Office of the Town Manager a certificate of compliance with FCC limits and standards applicable to facility operations and RF emissions applicable to uncontrolled general population exposure, including but not limited to the standards under FCC OET Bulletin 65 and related guidance. Further, where there are multiple sources of emissions at or proximate to a location the applicant shall reasonably certify and show compliance cumulative of all sources of RF emissions affecting a given area to the extent provided for by the FCC as set forth in OET Bulletin 65 and related FCC guidance or regulations, including the FCC LSGAC *Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance, Page 6* (June 2, 2000).
2. SWF Providers shall ensure that replacement poles, if necessary, are installed at a minimum height necessary to accommodate the small cell antenna equipment.
3. SWF equipment shall not include lights unless required under applicable federal or state law.
4. Facilities shall not emit noise greater than 43dB at one meter (3.28 feet) if technically feasible, and in no case shall emit noise greater than 58 dB at one meter on streets in areas zoned commercial and/or industrial and not greater than 52 dB at one meter in areas zoned residential.
5. In the event of Town installation of Town-owned poles, attachments to Town Poles shall only be permitted where the wireless provider applicant has executed a license agreement with the Town.
6. Small Wireless Providers shall comply with generally applicable Town bylaws and policies and applicable law including but not limited to Town lawful requirements and policies for police detail deployments in and around Small Wireless ROW work and installation sites.

7. *Non-Exclusivity* - To maximize collocation and prevent cluttering of street that may result from installation of new poles, it is the policy of the Town that wireless facility providers not enter into exclusive arrangements with any person for the right to collocate on poles or in conduits and other facilities in Town public ways or on Town property.

## VII. Insurance

A wireless provider that has been granted a permit to place a small wireless facility on a pole in the ROW shall maintain in effect, during the time that its small wireless facility is located in the ROW, commercial general liability insurance and commercial automobile liability insurance covering the Town against claims, injury or damage to persons or property caused by the proposed work, in amounts of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, and \$2,000,000 for each personal injury liability and shall maintain an umbrella liability coverage of at least \$5,000,000.00 per occurrence with a \$5,000,000.00 Annual Aggregate naming the Town as an additional insured. On request of the Town, such wireless provider shall provide certificates of insurance or other evidence of the above coverage. Such a provider may self-insure any required coverage as long as it or its parent maintains a net worth of at least \$200 million.

## VIII. Review of Small Wireless Facility Applications

### A. *Board Designated Agent Review*

1. The application shall be date-stamped upon receipt by the Select Board Office. Within ten (10) days of receiving an application, the Select Board or a Board Designated Agent will determine and notify the applicant by e-mail if an application is incomplete, and the Select Board or a Board Designated Agent will identify the missing information. The processing deadline in this section shall be tolled from the date of the e-mail notice of incompleteness to the date the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the Board Designated Agent or by agreement of the applicant and the Select Board if and as applicable.
2. The Select Board or Board Designated Agent, as determined by the Select Board, will coordinate scheduling of a public hearing on petitions for a grant of location and applications for approvals hereunder. At the public hearing testimony and evidence will be accepted regarding the Applicant's showing ability and intent to comply with this Policy and applicable law, including consideration of whether the proposed collocation or other location fails to comply with applicable codes, this Policy including but not limited to the requirements of Section III.B of this Chapter. The Select Board or Board Designated Agent will issue a permit upon approval of an application.
3. All applications shall be processed on a non-discriminatory basis. Once the Select Board or a Board Designated Agent has determined that an Application is complete in

accordance with Section VIII. A. 1 above, the Select Board or its Board Designated Agent will schedule and convene a public hearing of the Select Board to consider the Application, such that a determination may be made on any Application for any Installation(s) on an existing structure within sixty (60) days of initial receipt of the Application by the Town, and on a new structure within ninety (90) days of receipt of the Application by the Town consistent with FCC Small Wireless Facility rules and subject to applicant providing such additional information as may be lawfully required.

4. The Select Board or a Board Designated Agent shall document the basis for a denial, including the specific code provisions or requirements of Section III.B or noncompliance with other sections of this Policy and applicable law on which the denial is based, and send the documentation to the applicant on or before the day the Select Board or a Board Designated Agent denies the application. The applicant may cure the deficiencies identified by the Select Board or Board Designated Agent and resubmit the application within 60 days of the denial without paying an additional application fee. The Select Board or Board Designated Agent shall approve or deny the revised, complete application within 35 days. Any subsequent review shall be limited to the deficiencies cited in the denial.

#### *B. Appeal*

Within 30 days of any denial by the Select Board or a Board Designated Agent of an initial application or a resubmitted application, the applicant may appeal a decision of a Board Designate Agent to the Select Board or move for reconsideration of a Select Board decision as applicable, and the Select Board will make a decision within 30 days of the appeal or motion to reconsider. The Board shall base its decision exclusively on whether the Select Board or Board Designated Agent's determination that the proposed collocation or location decision fails to comply with applicable law and this Policy, or was otherwise not reasonably supported by evidence, or was arbitrary and capricious. If the initial denial was by the Select Board, the applicant may within 30 days of a denial appeal to the Select Board for reconsideration and the Select Board shall complete its review on reconsideration within thirty (30) days of a filing of a written petition for reconsideration accompanied by a statement of the legal basis for applicant's arguments in favor of reversal of the initial decision.

An applicant may in its discretion file a consolidated application to collocate small wireless facilities at multiple locations. The denial of one or more facilities in a consolidated application shall not delay processing of any other facilities in the same application, and the Town will issue a single permit for all approved locations. If any facility in a consolidated application is denied, each such facility may be the subject of an appeal or motion for reconsideration of a resubmitted application as provided above. In all such proceedings the Select Board shall afford the applicant a fair and reasonable opportunity to be heard.

#### *C. Permit Duration*

A permit issued under this Chapter shall be presumed to be of unlimited duration, unless the Select Board and applicant otherwise stipulate; provided, however, that such permit shall expire if construction of the proposed facility is not commenced within twelve (12) months of the permit issuance date or is commenced and then suspended for more than six (6) month unless the delay is caused by the lack of commercial power or communications facilities at the site, in which case these periods are automatically extended until six months after such facilities become available at the site. The Select Board or Board Designated Agent and the applicant may also agree to extend the period within which construction must commence or may be suspended.

IX. Abandonment and Removal of SWFs:

A. *Removal*

Within ninety (90) days following written notice from the Town, a wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities collocated or otherwise located on a pole or structure in a public ROW whenever the Town has reasonably determined that such action is necessary for the construction, repair, maintenance, or installation of any Town improvement in the ROW or the operations of the Town in the ROW.

B. *Abandonment*

The Town may require a wireless provider to remove a small wireless facility permitted hereunder within 180 days after the date that the facility ceases to be used unless the wireless provider gives the Town reasonable evidence that it is diligently working to place the facility or pole back in service. Should the wireless provider fail to timely remove the small wireless facility or pole, the Town may remove such facility and recover the actual, reasonable cost of such removal from the wireless provider.

Upon written request of the Select Board or its designated agent the SWF provider shall within 45 days of such request provide the Select Board a written inventory, including location information, of all small wireless facilities deployed in the town and all small wireless facilities not being used for six months or longer or known to be abandoned and not in use.

X. Indemnification

As a condition of its permit, a wireless provider granted a permit under this Policy shall defend, indemnify, and hold harmless the Town, its Select Board, other boards, commissions, officials, officers, agents, contractors, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including court costs and reasonable attorney's fees resulting from the negligence of the wireless

provider, its officers, agents, or employees in connection with the permitted work. This indemnity provision shall apply regardless of the merit or outcome of such claim or suit.

XI. Severability

If any provision or section of this Policy, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Policy or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and be enforced to the fullest extent permitted by law.

## **Exhibit 1 – Related Town of Needham Bylaws**

If and to the extent applicable, Applicants for approval of Small Wireless Facilities placements in the Town of Needham's public ways may be subject to other applicable laws, including but not limited to the Town of Needham bylaws on Street Occupancy Permits; Installations on Chestnut Street and Trench Safety in effect as of the date hereof including those set forth in this **Exhibit 1** (below) for the Applicant's convenience and reference. Applicants are advised to check with Public Works and review the Town's bylaws for current information on street occupancy, underground installations, trenching, street cuts and regarding grant of location policies and related information.

### **Section 2.2.5.1.4 of the Town of Needham Bylaw on Street Occupancy Permits**

**Section 2.2.5.1.4 - Street Occupancy Permit** Except as herein provided, a Street Occupancy Permit, issued by the Director of Public Works, in such form and content as said Director may require, must be obtained before undertaking any work, including, without limitation, construction, repair, maintenance or reconstruction work, in, within or affecting a public way. The person responsible for such work or in charge of those performing such work shall review such work with the Director of Public Works and the Police Chief, or their designees, to determine whether or not such work will result in the disruption of the normal flow of traffic or cause a safety hazard to pedestrian or vehicular traffic, the person responsible for such work, or in charge of those performing such work, shall follow the safety precautions ordered by the Director of Public Works and the Police Chief, or their designees, including but not limited to, the hiring of a Needham Police Officer, under the existing regulations governing privately paid police details, to direct traffic and minimize the vehicle safety hazards connected with such work.

No work shall be commenced in, within or affecting a public way until those persons responsible for such work comply with the requirements of Sub-section 2.2.5.1.4. The Town of Needham is exempt from these requirements of this sub-section. Whoever violates the provisions of Sub-section 2.2.5.1.4 shall be subject to a fine not exceeding one hundred dollars (\$100) each day being a separate offense.

The Chief of Police or Director of Public Works, or their respective designees, are hereby authorized to stop any work on any way conducted in violation of this sub-section.

### **Section 2.2.5.1.7 of the Town of Needham Bylaw on Poles along Chestnut Street**

#### **Section 2.2.5.1.7 - Construction and Maintenance of Overhead Poles**

Any person, firm, corporation or partnership, or their agents and employees, granted any license, permission or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately, any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut street between its intersection with School Street and the railroad bridge at Needham Junction.

## **Section 2.2.5.4 of the Town of Needham Bylaw on Trench Safety**

### **Section 2.2.5.4 - Trench Safety**

2.2.5.4.1 The Town Manager is authorized to designate a local permitting authority for issuing trench permits and/or licenses under the regulations promulgated by the Commonwealth of Massachusetts Department of Public Safety and Division of Occupational Safety in accordance with Chapter 82A of the General Laws relative to excavation and trench safety.

2.2.5.4.2 A trench is defined as a subsurface excavation greater than three feet in depth and is fifteen feet or less between the soil walls as measured from the bottom.

2.2.5.4.3 The Select Board may, from time to time enact fees to cover the costs of processing said permits and for enforcement thereof.

2.2.5.4.4 The Select Board may, from time to time, and after a public hearing, enact local rules and regulations consistent with Chapter 82A relative to the trench permitting process, the standard and special conditions for issued permits, and the enforcement of issued permits.

2.2.5.4.5 The Town may perform temporary repairs to private property if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations issue by the Select Board in accordance with Section 2.2.5.4.4. Said repairs shall be considered necessary to abate an immediate hazard.

### **Section 8.2.2.4 V. - Police Regulations**

#### **Section 8.2.2.4 V. - Street Occupancy Permit/Excavation in a Public Way**

Enforcement Agent: Director of Public Works

Fine Schedule: \$300 per offense